# EXECUTIVE OFFICE OF ELDER AFFAIRS

# STATE LONG TERM CARE

# OMBUDSMAN PROGRAM

ELDER Affairs

## ANNUAL REPORT TO THE LEGISLATURE

## FISCAL YEAR 1990

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Governor

**Paul J. Lanzikos**
Secretary

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Program Management

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State Long Term Care
Ombudsman

December 24, 1990

Dear Legislator:

The Executive Office of Elder Affairs is pleased to provide you with this copy of the Massachusetts Long Term Care Ombudsman Annual Report and Findings on Long Term Care. This Report is prepared pursuant to Massachusetts General Law, Chapter 19A s.32.

In fiscal year 1990 there were many significant changes to the long term care system. Federal nursing home reforms as embodied in OBRA '87, were implemented, including a campaign to reduce the use of physical and chemical restraints for residents and requiring all facilities to conduct a comprehensive patient assessment to ensure individualized care for each resident.

The Report lists a number of recommendations to improve the quality of life and care for the 55,000 residents of Massachusetts nursing and rest homes, as well as suggestions to make the delivery of long term care efficient and effective. Many of the recommendations contained in this report came directly from Ombudsmen and residents and represent a unique perspective. Several of the recommendations include: revising the existing Incentive Program to promote innovation and quality, requiring compliance with requirements for handicapped accessibility in nursing and rest homes and passage of legislation to ensure equal access to nursing homes.

In conclusion, may I add my good wishes to each of you and your staff. It has been my pleasure to serve as Secretary of Elder Affairs and to work with you to improve the quality of life and care for many of our very frail constituents.

Very truly yours,

Paul J. Lanzikos

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# DEDICATION

This year's Report is dedicated to the caring men and women who are Ombudspeople. Week after week, they visit the lonely and often forgotten residents of nursing and rest homes, provide assistance with their problems and remind them that the community still cares.

We would also like to offer special thanks to those dedicated staff people who provide quality care to the residents in their charge, strive for resident dignity, and cooperate with the Ombudsman Program to improve Long Term Care Services and quality of life.

# EXECUTIVE SUMMARY

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The Massachusetts Long Term Care Ombudsman Program has been sponsored by the Executive Office of Elder Affairs since 1973.

The Ombudsman Program is required by Massachusetts General Law Chapter 19A Section 33 to prepare an annual report to the Legislature on the Program's activities as well as its Findings and Recommendations for Long Term Care. This Report fulfills the requirement.

Ombudsman services are carried out on the local level by a cadre of 350 trained Ombudspeople. More than 250 of these Ombudspeople are volunteers. This year the Ombudsman Program achieved one of its major goals, to extend Ombudsman Services to residents of all the 742 nursing and rest homes in Massachusetts on a weekly or biweekly basis. In the course of our visits, we made 1.6 million resident contacts and processed 7,497 complaints.

This achievement distinguishes Massachusetts as the leader in the Nation for Ombudsman services. No other state approaches the 100% mark of facilities receiving regular Ombudsman visits.

This report details the Findings of the Ombudsman Program relative to the provision of Long Term Care Services to more that 55,000 residents. The findings fall into broad categories: patient care; quality of life issues; accommodations, access to care and specific issues concerning residential care facilities or rest homes.

The Major Recommendations of this Report include:

1. Implementation of the Nurses' Aide Training Law.
2. Revision of the existing Incentive Program to one that promotes quality and innovation in long term care.
3. Enforcement of compliance by all facilities of the accessibility standards set forth in the federal Handicapped Rehabilitation Act of 1973, Section 504.
4. Passage of Legislation to ensure Equal Access to Nursing Homes, eliminating Medicaid Discrimination.

5. Promulgation of new Attorney General's Regulations for Residents Rights.
6. Revision of the existing regulations for rest homes including increasing rates, and staff requirements.

As in the past, these recommendations require cooperation among legislators, regulators, advocacy groups and providers in order to improve the quality of care and life for the 55,000 residents.

# INTRODUCTION

# INTRODUCTION

The word Ombudsman is difficult to remember, yet, for the 55,000 residents of Massachusetts nursing and rest homes, Ombudsmen are very familiar people.

In the seventeen years of operation at the Executive Office of Elder Affairs, the Long Term Care Ombudsman Program has helped thousands of people resolve their complaints and problems regarding nursing and rest homes using negotiation and advocacy. Massachusetts is considered a model in the nation in terms of the services provided, scope of coverage and success in resolution.

The Ombudsman Program was originally established by the Federal Government and is presently mandated by the Older Americans Act and in state law under Massachusetts General Law Ch. 19A s. 27-35. The Program has four main goals:

1. Receiving, investigating and resolving nursing and rest home complaints;
2. Protecting residents' rights;
3. Providing information on Long Term Care Issues to residents, families and staff;
4. Advocating for positive changes to the long term care system which will have an impact on the quality of life, care and environment in all Massachusetts nursing and rest homes.

Massachusetts is unique in the country in terms of its coverage of the facilities. Today, every nursing and rest home in the Commonwealth receives a weekly or biweekly visit from a trained and certified Ombudsman. In FY '90, Ombudsmen made more than 1.6 million resident contacts in the course of these weekly visits.

The twenty seven local Ombudsman Programs are all overseen by a full-time paid professional who acts as the Program Director. More than half of the programs also employ an Assistant Director. Additionally, there are three hundred workers, most of whom are older volunteers who are assigned to programs throughout the state.

The number of complaints has continued to expand over the years, growing with the program's expansion and increased training. In FY '90, 7,497 complaints were processed from various sources.

A unique feature of the Ombudsman Program is that in most instances, complaints are resolved at the local level, through the combined efforts of Ombudsmen and facility staff. Additionally, residents do not have to sort through a bureaucratic maze, searching for a correct agency to address their particular concerns. Ombudsmen will receive complaints of all types, from missing dentures to cases of suspected abuse, as long as the issue has an impact on residents' quality of life or care.

Over the years, the weekly presence of Ombudsmen has had an enormous, positive impact on the long term care system and the quality of care which residents receive. First, Ombudsmen are available to the residents. They bring the community into the facility and remind often isolated residents that society has not forgotten them. Ombudsman data on complaint issues and advocacy has been a catalyst for both legislative and regulatory reforms. Finally, Ombudsmen have been educators, informing residents, families and staff about residents' rights and regulations, while at the same time spreading news of innovations in long term care service delivery throughout the state.

# MAJOR ACCOMPLISHMENTS

# MAJOR ACCOMPLISHMENTS

Ombudsmen advocate on a variety of levels to ensure that Ombudsman services are strengthened and to improve conditions for nursing and rest home residents.

## Strengthening Ombudsman Services

Recruitment Initiative - Through the efforts of the State Long Term Care Ombudsman Office and the Franklin County Ombudsman Program, the National Office of AARP agreed to conduct a statewide recruitment campaign to all its membership in Massachusetts to encourage them to volunteer for the Ombudsman Program. Massachusetts was one of two states selected for this assistance. Although the recruitment campaign is still underway, nearly sixty new workers have been recruited, with more anticipated in the fall of 1990.

Testimony Before U.S. Senate - The State Ombudsman was asked to testify on June 28, 1990 before a United States Senate Committee considering the reauthorization of the Federal Older Americans Act as it relates to the Ombudsman Program. The testimony provided the opportunity to explain the services of the Massachusetts Long Term Care Ombudsman Program and to make suggestions for the legislation that would strengthen all state Ombudsman Programs. Some of the recommendations included: creating a separate title and funding source for Ombudsman Programs under Title III of the Act; clarifying the protection of confidentiality in cases of resident abuse; and establishing requirements that set forth Ombudsman practice.

Testimony Before the Federal Administration on Aging - In the Fall of 1989, the Secretary of Elder Affairs appeared before the Commissioner of the Federal Administration on Aging, in a hearing organized to obtain comments regarding the re-authorization of the Older Americans Act. The Secretary provided testimony focused at strengthening long term care Ombudsman services in Massachusetts and throughout the country.

Uniform Procedures - As part of a new standardized assessment process, the state staff provided technical assistance to all the local programs to develop uniform administrative procedures to follow in crisis cases, develop Ombudsman backup coverage plans and establish requirements for supervising local Ombudsmen.

Training - Despite staff reductions on the state level, the State Ombudsman Staff developed and provided expanded training programs. In FY 1990, the State Ombudsman staff re-certified nearly 300 local Ombudsmen, provided five weekend training programs (in addition to thirteen (13) regularly scheduled training programs) for non-traditional volunteers, provided "Train the Trainer" sessions for the Ombudsman Program Directors and also provided monthly in-service education to all the Program Directors to keep them current with long term care issues.

Public Service Announcements (PSA's) - Six Radio P.S.A.'s to recruit volunteers and explain the program's services, produced in conjunction with the Boston University School of Communication, Ad Lab, will air in the Fall of 1990. Lieutenant Governor, Evelyn Murphy volunteered to participate in the taping of one of the radio spots.

Issues Advocacy

Restraint Reduction Task Force - The federal Omnibus Budget Reconciliation Act of 1987 called for sweeping nursing home reform. One change that was included was a resident's absolute right to be free from physical and chemical restraints. Nearly 50% of all nursing home residents in the United States are restrained, compared to 5% in European and Scandinavian countries.

In February 1990, the Secretary of Elder Affairs convened a Restraint Reduction Task Force that was comprised of Ombudsman staff, regulatory agencies, nursing home representatives, provider groups and advocacy groups. This group met regularly and devised strategies to overcome barriers to restraint reduction. The group collaborated to develop a guide, edited by the State Ombudsman staff, that described a step by step process for a facility to use to reduce physical and chemical restraints. The expected date of publication for this guide is November 1990.

Accessible Facilities - The State Ombudsman Program staff developed a working group to examine the problems encountered by older, woodframe nursing homes and rest homes in terms of meeting handicapped accessibility standards. The group will continue to meet in FY '91 to develop necessary changes to the long term care licensing regulations which will incorporate mandated accessibility requirements for nursing and rest homes.

Implementation of Nurses' Aide Training Program - Staff from the Long Term Care Ombudsman Program actively participated in developing the process to initiate nurses aide training in Massachusetts. Specific contributions included developing an informed consent form for residents who volunteered to participate in nurses aide training and testing; developing competency standards for nurses' aides; and providing the Federal Health Care Financing Administration with comments on proposed regulations.

## MAJOR CASES

In March 1990, the State Long Term Care Ombudsman Program filed a complaint against thirty nursing homes with the U.S. Office of Civil Rights (OCR) alleging that the homes had discriminated against handicapped residents and visitors by failing to comply with handicapped accessibility requirements mandated by the Handicapped and Rehabilitation Act of 1973. O.C.R. has been investigating the cases and will ultimately require that any violations of the law be corrected.

Closure of an East Boston Rest Home - Unfortunately, there are some facilities which can not be rescued from adverse situations. This was the case for an East Boston Rest Home. After years of being under the protection of a receiver, the rest home, due to a variety of problems including a building in terrible disrepair and a business suffering from financial difficulties, was closed. For the nearly twenty-five residents who had long called this home, the decision to close the building and relocate the residents was extremely frightening. The local Ombudsman Program teamed with staff from the Departments of Public Health and Mental Health to ensure that residents were transferred to appropriate settings, and relocated with their longstanding friends.

Assistance during a Brockton Nursing Home Fire - In June 1990, local Ombudsmen in Brockton received news that there was a fire in a Brockton nursing home. Rushing to the scene, the Ombudsmen found residents safe, but the facility damaged. It was necessary to temporarily relocate the residents. The Ombudsman staff worked with the facility's administration and the staff from the Department of Public Health to locate emergency beds, and provide comfort and reassurance to the residents. Ombudsmen also visited residents who were relocated to ensure they had settled into the new facilities and did not have any specific problems.

Emergency in Lynn Rest Home - Local Ombudsman staff received reports over a weekend that a Lynn rest home operator had left on vacation and had failed to leave sufficient food for the residents. Upon investigating, the Ombudsman determined there was not even a day's supply of appropriate food available. The Ombudsman Program alerted the Department of Public Health, which immediately intervened and ordered the facility to purchase sufficient food and milk to meet the residents' needs, thereby avoiding an immediate crisis.

On-going Monitoring of Homes in Receivership - One of the major efforts of the Ombudsman staff was the intensive monitoring of homes where receiverships had been implemented or where there were conditions that jeopardized residents' safety and care. In many instances, Ombudsman provided daily visits to the residents of these homes to reassure them that they were not alone and reported any significant changes in the status of the homes or the residents to the appropriate regulatory agencies.

# FINDINGS
# PROGRESS
# &
# RECOMMENDATIONS

## FINDINGS, PROGRESS AND RECOMMENDATIONS

The data that is used to generate this report is compiled throughout the year by Ombudsmen at the state and local level. Each complaint that is processed is coded and entered into a computer for easy data management. This source of information enables the State Ombudsman Program to identify trends in complaints and focus corrective action effectively and efficiently.

On an annual basis, local Ombudsman provide the State Ombudsman with their findings and suggestions to improve the quality of life, care and environment in nursing and rest homes. The suggestions contained in this report come directly from Ombudspeople and from consumers, including residents, and represent suggestions for important, necessary changes.

Fiscal year 1990 was tumultuous as providers and regulatory agencies struggled to provide good care despite budget problems. Clearly, there will be changes to the long term care system in the future. The challenge to everyone involved will be to reform the system to control Medicaid expenditures without dismantling a system which has given Massachusetts a well deserved reputation for being an innovator in long term care service delivery.

## PATIENT CARE

Nearly thirty-six percent (36%) of all Ombudsman complaints received in FY 1990 dealt with patient care problems. This represents 2,674 of a total of 7,497 complaints. For the second year in a row, the most common type of complaint registered was poor quality of nursing services. Nearly 900 complaints were received which echoed Ombudsmen's concerns that staff was poorly trained, was insufficient in number to meet the resident's needs and did not treat residents with the dignity they deserve.

Many of the complaints are the result of a failure of the "system" to ensure that the staff who care for thousands of elderly, frail residents possess the necessary skills and training to properly carry out their jobs. Although a law requiring the mandatory training of nurses aides was passed in Massachusetts in 1985 and a similar federal law enacted in 1987, the majority of Massachusetts nurses aides remain untrained. Budget constraints and administrative snags have been cited as major obstacles to the implementation of the training requirement.

What has remained as a constant is that the residents and the Commonwealth pay the price for this lack of training. Residents suffer the consequences of poor care at the hands of often well-meaning, but unskilled workers. The Commonwealth must pay the cost of Patient Care Receiverships, turnover of staff and increased medical care to assist residents who have been dropped by an aide who did not know how to properly transfer a debilitated elder. The other unfortunate consequence of the failure to implement training is that we have discouraged aides who were not trained and might have been tremendous assets to the long term care system had they remained.

# PROGRESS

Local Ombudsman staff report less reliance across the state on pool staff to provide care. The economy and increased wages have made significant improvement in the availability of labor in the long term care system.

One of the major innovations in long term care in the last decade began to occur in Massachusetts during this fiscal year. Facilities across the state, as well as those across the country, began to seriously re-examine the use of physical and chemical restraints on nursing home residents with an eye to implementing requirements of OBRA. For a few pioneer facilities, their efforts were so dramatic in terms of the positive effect their actions had on the care and dignity of the resident that many more people were inspired to "take up the cause".

The use of physical and chemical restraints in the United States has become commonplace. Nearly 50% of all nursing home residents in Massachusetts were controlled by a restraint. In other countries, the incidence of restraint use is less than 5%. The restraints are generally applied as a measure to protect the resident's safety. An unfortunate, yet common situation, is as follows:

> **Mrs. Jones had a history of losing her balance and falling. It is decided that she should be restrained to protect her. A vest restraint is applied, Mrs. Jones, upset at being restrained, becomes agitated and struggles to get out of the restraint. Soon a drug is prescribed to calm her down.**

Today, more facilities are trying to be innovative and develop care that is specific to meeting the resident's needs. Instead of restraining Mrs. Jones, a facility might try to get her involved in a mobility or exercise program to improve her ability to walk, or activities that provide her with an outlet for her energy. Positioning techniques and comfortable chairs might also be used.

Since February 1990, the Secretary of Elder Affairs has been convening a task force to eliminate barriers to facilities reducing the use of restraints. The group consisted of nursing home staff who have dramatically reduced or eliminated physical and chemical restraints in their homes, representatives of the long term care provider associations, regulators and advocates. The group reviewed various problems that had been encountered by the facilities that had initiated a successful reduction campaign and developed approaches to avoid the pitfalls of other facilities.

One of the major products of the task force's efforts will be a comprehensive guide designed to give a facility a blueprint to safely and effectively reduce the use of restraints. It is critical that the campaign be carefully planned and executed. Ombudsmen have reported well intentioned, yet haphazard efforts in some facilities where restraints were untied without proper care and assistance being provided to the residents. The result of these efforts was increased falls and injuries.

This new effort is a major innovation for the residents of nursing homes and will clearly result in care for older people that is dignified and respectful. FY 1991 will be the year to "Untie the Elderly."

# RECOMMENDATIONS

## RECOMMENDATION #1

The Executive Office of Human Services should aggressively implement the federal and state laws that mandate nurses' aide training and testing.

## RECOMMENDATION #2

The Department of Public Health should require that all direct care staff speak and understand English, and in homes serving large non-english speaking residents, require that there be sufficient nursing staff on each shift that speak the language of the residents.

## RECOMMENDATION #3

The Massachusetts Rate Setting Commission should revamp the present Incentive Program for nursing homes and use the funds to promote innovative programs which enhance residents' quality of life and care in nursing homes.

## RECOMMENDATION #4

The Department of Public Health and Public Welfare should immediately implement a system to fine facilities for non-compliance with regulatory requirements, in particular, those dealing with conditions attached to Certificate of Need approvals.

## RECOMMENDATION #5

The Massachusetts Medical Society should develop educational programs to inform physicians serving elderly patients about the most current geriatric pharmacology practices and alternatives to physical restraints.

## RECOMMENDATION #6

The Departments of Public Health and Public Welfare should collaborate to develop regulations and funding policies that enable physicians and nurse practitioners to practice preventive medicine rather than crisis response, eliminating many emergency room visits for nursing home residents. Further, a clinical audit system must be developed to ensure that Medicaid residents in nursing homes actually receive the physician services that are billed; and any physician found to be charging for services not actually rendered should be eliminated as a Medicaid provider.

## SAFE, COMFORTABLE FACILITIES

In most recently constructed nursing homes, the physical plant is handicapped accessible, rooms are spacious, there are large activity and dining rooms and residents have adequate storage space. Additionally, the facilities have good heating and ventilation systems.

However, because Massachusetts has many older facilities and a very large number of older converted homes, there is great disparity in the environment from one home to another. Because licensing regulations permitted waivers, many of which have not been reviewed for years, there are a number of homes which fail to provide a homelike atmosphere or promote quality of care.

In anticipation of implementing the provisions of the Omnibus Budget Reconciliation Act of 1987, Ombudsmen conducted reviews of the physical plants in most of the freestanding intermediate care facilities. The results of the review were alarming. More than thirty of the homes lacked a ramp to get into the building or had such a steep ramp that a person in a wheelchair could not self-propel in or out of the building. Many of the homes failed to comply with other handicapped accessibility standards that have been mandated since 1973. There were homes that did not have an electronic call bell system throughout the facility to enable the residents to summon assistance. There were homes that lacked any dining or activity space and a large number of facilities that did not have a common area large enough for most of the residents to participate in a group activity.

It was not uncommon to find six or more people sharing a room, affording little privacy, and to have one communal bathroom for a large number of men or women. Ombudsmen cited lack of privacy and crowded conditions as major barriers to quality care. These conditions, coupled with inadequate ventilation and the absence of elevators to ensure residents' ability to move from floor to floor are not appropriate settings to care for older, frail elders, many of whom rely on wheelchairs to get around.

In some homes there was so little compliance with mandated Handicapped Accessibility standards that the State Ombudsman's Office, believing that the conditions were adverse to residents' quality of life, made a formal complaint to the U.S. Office for Civil Rights, charging that the homes were discriminating against handicapped residents and visitors. The Office for Civil Rights is the designated agency to receive such complaints against Medicare and Medicaid providers. The OCR began its investigation in FY '90, and if OCR identifies violations of the Handicapped and Rehabilitation Act of 1973, Section 504, it will give the facilities the opportunity to voluntarily make corrections. If corrections are not made, OCR has the power to order that facilities make changes in order to come into compliance with the law.

Additionally, because many of these homes were originally constructed or licensed when the residents were more independent and ambulatory, they also lack other environmental improvements that facilitate the quality of life for older people, such as secured outside space, private rooms to meet with visitors, and two bed patient rooms equipped with an accessible bathroom. These homes also lacked other equipment, physical therapy areas and equipment, and activity space designed to provide a wide range of programming.

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## PROGRESS

As a result of an interagency effort to implement the requirements of the OBRA '87, many of the older facilities are being carefully scrutinized to ensure that they are appropriate living situations for nursing home residents. All the existing licensure requirement waivers that have been granted by the Department of Public Health are being reviewed to determine if any of the waived requirements negatively affect residents' quality of life and care.

Further, as a result of the complaint that was filed with the Office for Civil Rights, an interagency group consisting of the Departments of Public Health and Public Welfare, the State Ombudsman staff, Office for Handicapped Affairs and the Department of Mental Health have been meeting to discuss how the licensure regulations for nursing and rest homes must be amended to include compliance with handicapped accessibility standards. Because the newly enacted Federal Americans with Disabilities Act calls for more stringent measures to ensure program accessibility, it is critical that all Massachusetts licensed nursing and rest homes meet the existing requirements and comply not only with federal mandates but state laws and Executive Orders as well.

Another area of concern for the Ombudsman staff was the conversion of hospital beds into nursing home beds. As a result of a three-year effort to have requirements for appropriate environments mandated, the Executive Office of Elder Affairs was successful in having many of its suggestions incorporated into the Hospital Conversion Guidelines that were adopted by the Public Health Council. In FY '90, there were several hospitals that either converted all or part of their beds to long term care using the guidelines. Elder Affairs' staff toured the hospitals and provided technical assistance prior to their final conversion.

## RECOMMENDATIONS

### RECOMMENDATION #1

The Department of Public Health should continue its work to review all current physical plant and Life Safety Code waivers that have been granted and, where appropriate, require facilities to make corrections that will ensure residents' safety and quality of life.

### RECOMMENDATION #2

The Department of Public Health should amend its licensure regulations to require compliance with present handicapped accessibility requirements and inspect all homes to ensure compliance with the new regulations.

## RECOMMENDATION #3

The Legislature should enact a law that would promote the construction of new long term care facilities in residential neighborhoods and eliminate the current practice of "snob zoning" that currently inhibits construction.

## RECOMMENDATION #4

The Executive Office of Human Services should carefully examine all current bed planning policies, including the Determination of Need Program, and develop incentives for new construction of nursing and rest homes in order to replace older beds that are no longer appropriate to care for frail, debilitated, elderly people.

# ACCESS TO CARE

For many years the Ombudsman Program has been grappling with a way to eliminate barriers to receiving good quality of care.

Medicaid Discrimination is a problem that older people face across the Nation. Medicaid discrimination is particularly cruel when it involves admission to a nursing home. Although every year many people face the task of finding a bed for a loved one, few people plan in advance for admission. A limited supply of beds, unregulated private rates, and little enforcement of existing laws, place people with little or no financial resources at a major disadvantage.

Every year since statistics have been available, the Ombudsman Program has reviewed data provided by the twenty-seven Home Care Corporations and the Massachusetts Hospital Association survey data on people awaiting nursing home placement and reached the same conclusion. On average, a person who is a Medicaid recipient must wait twice as long for a bed as someone who has the financial resources to pay for his care.

Although the Commonwealth has made efforts to increase the bed supply and create a prospective case mix payment system, Medicaid Discrimination is still prevalent. For many years this has gone unchallenged in Massachusetts nursing homes because there is no enforcement mechanism for the existing laws.

Consumer education about selecting a nursing home is pointless when someone on Medicaid is discouraged from filling out an application and is told there is no waiting list. Although people who are Medicaid recipients comprise less than one third of all admissions, they are discriminated against. When there have been hearings to discuss an equitable admissions system, providers have claimed that admitting on a first come first serve basis will flood all the homes with Medicaid admissions. Medicaid-eligible elders are not asking for special treatment, only equal consideration.

Another group that has an extraordinary difficult time obtaining admission to a nursing home are younger disabled adults or other individuals who have special care requirements necessitated by such diseases as AIDS, Huntington's Disease and Multiple Sclerosis. Although there is a payment system that ties reimbursement to care needs, specifically designed to encourage facilities to take heavy care needs, many wait for months for care. A person on Medicaid and with heavy care needs has an extremely difficult time when it comes to obtaining admission to most nursing homes.

## PROGRESS

Several of the converted hospital bed projects have included beds dedicated to caring for heavy care and so-called special populations such as Mentally Ill/Medically Involved. Hopefully, as other facilities observe the success of these projects, more will be encouraged to provide similar services.

The Department of Public Welfare recently required that all skilled Medicaid facilities certify at least one skilled unit for the Medicare Program. This action has resulted in 394 facilities being certified as of Fall 1990, thereby greatly enhancing people's access to Medicare benefits, reducing the Commonwealth's financial burden and enabling elders to receive more comprehensive, post-acute nursing care in nursing homes.

The Department of Public Welfare also issued a Request for Proposal (RFP) to encourage nursing homes to provide care to people requiring specialized care as a result of a brain injury or other debilitating disease. The results of the response to the RFP should be implemented in FY 91.

## RECOMMENDATIONS

### RECOMMENDATION #1

The Legislature should enact a bill that would ensure all people equal access to nursing homes.

### RECOMMENDATION #2

The Office of the Attorney General should immediately promulgate regulations which prohibit Medicaid Discrimination for long term care admissions and in the provision of services.

### RECOMMENDATION #3

The Department of Public Health and Welfare, the Rate Setting Commission and the Executive Office of Elder Affairs should develop a process to enforce the existing Medicaid access conditions that are attached to every Certificate of Need Approval.

### RECOMMENDATION #4

The Department of Public Welfare should work with various advocacy groups for people with brain injury or other debilitating diseases, identify barriers to their constituents receiving nursing home care, and develop specialized programs that will ensure these individuals' access to high quality care.

# QUALITY OF LIFE ISSUES

Over the years, nursing and rest home care has been an issue that many people would prefer to forget. We are horrified when cases of abuse or neglect are reported by the media, but the concern is short-lived. Most people believe that they will never need a nursing home bed. As a result, they choose to ignore this vital and necessary industry.

The apathy of the public has a side effect. Family members and residents, believing that dignified quality of care is not possible, settle for less. When people search for ways to cut "budget busters" - nursing and rest home care are easy targets; for there are truly few advocates for this service. Staff of nursing and rest homes describe their reluctance to say that they work in a nursing home, because they are often greeted with "How can you do that? It must be so depressing."

The Ombudsman Program received 863 residents' rights complaints in FY 1990. The complaints fell into very wide-ranging categories. Lack of dignified, individual treatment was a recurring theme in many of the complaints received.

There are thousands of older people living in Massachusetts nursing and rest homes. It is easy for society to view them as a faceless group. However, each one has contributed to our society and economy throughout his or her life and should be considered as an individual, much in the same way any one of us would want to be treated. As regulators, legislators, advocates and providers search for the best ways to provide care, we should design our systems, regulations and laws as though we were preparing to care for the most precious person in the world, for in fact, he or she is already our constituent.

Attitude - Clearly, one of the most difficult problems to address is poor staff attitude. Residents complain that they are not treated with dignity. Aides forget to pull the privacy curtain when providing personal care or toileting residents. Residents are asked, "What do you want now?" rather than, "How may I help you?". The simple act of knocking on the door, and asking for permission to enter a resident's room is important to the residents, many of whom have led very private lives.

Loss of Belongings - The Ombudsman Program received 298 complaints regarding the loss of personal belongings of the residents. Unfortunately, this is a problem common to most facilities throughout the Commonwealth. Most residents have suffered many losses before entering a nursing home, such as the death of a spouse or the loss of the family home. The few small possessions and their clothes that they bring to the nursing home are particularly important. They are also easy to misplace.

Activities - Ombudsmen report that activities programs do not provide stimulation or entertainment to most of the residents in nursing or rest homes. A variety of activities that are interesting to different groups of residents are therapeutic and are critical to residents' well-being. Although there have been attempts to upgrade the professionalism of the position of activity director, in many facilities, the person charged with this role is untrained in adult recreation therapy and is not given supplies or a budget with which to create a varied, interesting program. The number of complaints regarding activities were echoed in the findings of the Department of Public Health surveys that regularly cite facilities for inadequate activities programs.

Freedom of Choice - Making choices every day is something that most people take for granted. The ability to decide when to get up, what to wear and even when to go to the bathroom may be removed from a resident of a nursing or rest home. It is understandable that some regimentation is necessary in a large health care institution. However, it is incumbent on each caregiver and consumer to promote independence in nursing and rest home residents. One area of choice which Ombudsmen report is most neglected is that in the selection of food. While meals are most often nutritious, residents have little input into the meals and the availability of alternatives is limited.

## PROGRESS

OBRA '87 - The Omnibus Budget Reconciliation Act (OBRA) of 1987 called for a change of focus in nursing home care that highlights residents' rights to make choices, be free from restraints, and be provided with individualized care. As Massachusetts nursing home providers and regulators have moved to implement the law, new awareness of residents as individuals has emerged. Comprehensive resident assessments mandated by the law should result in more dignified treatment.

Nurses' Aide Training - While it is difficult to change staff attitudes about aging, the implementation of nurses' aide training in Massachusetts should result in nurses' aides who better understand the aging process. Educating primary care staff about appropriate, dignified methods to treat Alzheimer's residents is critical.

Joint Training - The nursing home industry and the Department of Public Health collaborated to provide in-depth training to hundreds of nursing home administrators and staff throughout the state to educate them about the new federal mandates that emphasize resident choice.

# RECOMMENDATIONS

## RECOMMENDATION #1

The Office of the Attorney General should immediately promulgate new Consumer Protection Regulations which address resident's rights to exercise choice, have a voice in room changes and be treated with dignity and respect.

## RECOMMENDATION #2

The Department of Public Health should promulgate regulations which specifically require that all individuals designated as Activity Directors are trained in adult recreation. On the Job Training (OJT) should not be an acceptable substitute in lieu of any formal education.

## RECOMMENDATION #3

The Department of Public Health should strictly enforce the provision that residents be provided with a secure space to protect their valuables. Additionally, facilities should be required to carry insurance that would cover replacement of lost or stolen articles.

## RECOMMENDATION #4

The Department of Public Health should amend their long term care facility regulations and require that residents have a direct input into food/menu planning and that alternative meals, planned by the residents, are available.

# REST HOMES

Massachusetts has long prided itself in being a leader in developing a strong continuum of long term care. We were among the very first to develop a home care system, to license board and care facilities, to develop a prospective case mix reimbursement system and to reduce physical and chemical restraints in nursing homes.

Over the years, one of the cornerstones to the continuum, rest homes, has been neglected. Rest homes provide twenty-four hour supervision, room and board, activities, personal care and limited nursing care to older, frail people. Many facilities are also licensed to provide care to residents who have mental health needs.

The number of rest homes and beds has steadily declined in recent years. As of June 1990 there were 184 freestanding facilities and 5,042 beds. Five years earlier, in June 1985 there were 224 freestanding facilities and 5,974 beds. The shrinkage is due to several factors: reimbursement rates; ownership; physical plant problems; and staffing problems.

In the last year, a number of facilities have been cited by the Department of Public Health for serious deficiencies. Many of the rest homes have not been surveyed for several years, as a result of staffing shortages within the Department of Public Health's Licensing Division, allowing conditions to deteriorate without intervention.

Ownership/Administration - Many of the rest homes in Massachusetts continue to be owner-operated, and have an average bed capacity of twenty-eight beds. There is presently no requirement for training or licensure for the "responsible person" in a rest home. Further, the Rate Setting Commission's Administrative Policy and Planning Allowance (APPA) is significantly lower in rest homes than in nursing homes. This lack of training and the inability to pay a professional wage takes its toll on the residents.

Because many of the facilities are licensed to provide care to people with mental health needs either as a Community Support facility or a Conventional Rest Home caring for Community Support residents, the capacity to manage complex supervision and care needs is essential. Further, because rest homes must exist and provide care on relatively low rates, prudent fiscal management is critical to the home's functioning.

Low Rates - Over the years, the nursing home industry has been given several legislative and administrative financial "pass throughs" in order to address labor crises. These "pass throughs" were subsequently incorporated into the base rates of the homes. Rest homes received no such rate increases for staff wages and have operated on a prospective system that used an artificially controlled base from which to establish future rates. (Rest Home rates were capped for many years.) The average rest home rate is $34.00 compared to $88.00 for multilevel nursing homes. Further, nursing homes will all be paid, on January 1, 1991, by a prospective case mix reimbursement system which pays based on acuity. There is no such recognition of acuity differences in rest homes, although in a 1989 survey of rest homes by the Association of Massachusetts Homes for the Aging, (AMHA) the majority of reporting facilities stated they would admit people who need medication supervision, special diets, assistance with bathing, were diabetic or were cognitively impaired.

Staffing - Rest Homes are understaffed for the residents they serve. The licensure regulations for rest homes were developed in the 1970's and were up-dated slightly to recognize special needs of residents with mental health problems. Presently, the regulations require a nurse only four hours per month, one responsible person on each shift for every ten residents, some form of activities 20 hours per week and social work and dietary services, only as needed. Physicians are required to visit every six months. By their own response, many rest homes are admitting and continuing to provide care to debilitated and often cognitively impaired elders. Unlike nursing homes, aides or responsible people in rest homes are not required to be trained. When surveys are conducted, rest homes are cited for patient care and activity problems.

Physical Plant Problems - Most rest homes are older, converted homes. Few comply with federal and state requirements for handicapped accessibility. Depressed rates have not permitted facilities to renovate or refurbish the buildings. Many rooms are crowded and there are few bathrooms. Common areas for activities and dining are cramped and often smoke-filled. Privacy is severely lacking.

Community Support Facilities (CSFs) - While the original intention of the creation of a separate licensing category was to ensure that impaired residents received extra services, this has not occurred in the majority of the homes. In fact, in the 1989 survey of rest homes conducted by AMHA, CSFs actually employed fewer people per resident to provide care than did conventional rest homes. Clearly, this program must be carefully re-examined and revamped.

# RECOMMENDATIONS

## RECOMMENDATION #1

The Department of Public Welfare and the Rate Setting Commission should make substantial changes to the methodology used to set rest homes rates , including but not limited to recognizing Massachusetts' wage inflation, establishing an administrative petition process to permit immediate increase for necessary staff and building repair, equalize the APPA for rest homes to that of nursing homes, and create a system that addresses differing acuity levels and care requirements.

## RECOMMENDATION #2

The Department of Public Health and the Division of Registration - Nursing Home Administrators should collaborate to develop professional standards and licensing requirements for rest home administrators.

## RECOMMENDATION #3

The Department of Public Health should amend its licensing regulations to include increased staffing as follows: at a minimum, rest homes should be required to have a licensed administrator 16 hours per week, a licensed nurse (RN or LPN) eight hours per day seven days a week; nurses' aides in a ratio of one to 15 residents on the day and evening shifts and one to 30 residents on the night shift; Social Services by a licensed social worker at a minimum one-half hour per week per resident; and a full-time professionally trained Activities Director. Additionally, rest homes should be required to employ a registered dietician two hours per week and a trained food service manager.

## RECOMMENDATION #4

The Department of Public Welfare should aggressively pursue capturing federal Medicaid dollars [Federal Financial Participation (FFP)] for personal care services provided in rest homes.

## RECOMMENDATION #5

The Department of Public Health should amend its regulations regarding medication administration to state that unless a resident is competent and may self medicate, only licensed medical personnel may administer class II and psychotropic drugs in rest homes. Further, all rest home staff must receive training and observe the requirements set forth in the Roger's Case for the administration of psychotropic drugs.

## RECOMMENDATION #6

The Rest Home Industry, Provider Associations, the Executive Office of Human Services and the Massachusetts Office for Handicapped Affairs should collaborate to provide training to the rest home providers as to the needed physical plant modifications that will be necessary to comply with the Federal Americans with Disabilities Act and state laws for handicapped accessibility.

# APPENDICES

# STATE LONG TERM CARE OMBUDSMAN PROGRAMS

## OFFICE OF THE STATE OMBUDSMAN - (617) 727-7750 or 1-800-882-2003

## LOCAL OMBUDSMAN PROGRAMS

| PROGRAM AREA | PROGRAM DIRECTOR | TELEPHONE NUMBERS |
|---|---|---|
| ROSLINDALE/JAMAICA PLAIN | MARIETTA MCCARTHY | (617) 325-6565 |
| DORCHESTER/EAST BOSTON | MARIETTA MCCARTHY | (617) 325-6565 |
| BRIGHTON/ROXBURY | MARIA BURRELL | (617) 742-6830 |
| BRAINTREE | PATTY WHITE | (617) 848-3910 |
| BROCKTON | SUE RYAN | (508) 583-1833 |
| BROOKLINE/NEWTON | JANET RUBOY | (617) 566-5716 |
| CAMBRIDGE/SOMERVILLE | JENNI CALDWELL | (617) 628-2601 |
| CAPE COD AND THE ISLANDS | RALPH GOLDING | 1-800-244-4630 |
| CHELSEA/REVERE/WINTHROP | SARAH L. ROBINSON | (617) 286-0550 |
| FALL RIVER/ATTLEBORO | MARGARET PILKINGTON | (508) 226-8874 |
| FOXBORO | SUSAN JOHNSON & MARY LAMB (CO-DIRECTORS) | (617) 769-7440 |
| FRAMINGHAM | HARRIET SIEGAL | (508) 620-0840 |
| FRANKLIN COUNTY | CHRISTINE BARONAS | (413) 863-9565 |
| GLOUCESTER | BETTY HILL | (508) 281-1750 |
| HOLYOKE/CHICOPEE | KATHERINE NOWAK-CRANE | (413) 538-9020 |
| LAWRENCE | BETTY PHANEUF | (508) 683-7747 |
| LEOMINSTER | DARLENE HUMPHREY | (508) 534-8558 |
| LEXINGTON | NANCY GIRARD & BEVERLY ECKHARDT (CO-DIRECTORS) | (617) 861-0896 |
| LYNN | EMILY FARR | (617) 599-0110 |
| MALDEN | MELISSA SICA | (617) 324-7705 |
| MILFORD | ANN LEWIS | (508) 478-0820 |
| NEW BEDFORD | FRANK SILVA | (508) 999-6400 |
| NORTHAMPTON | MARSHA WALLACE | 1-800-322-0551 |
| PEABODY | PAMELA MACDONALD | (508) 750-4540 |
| PITTSFIELD | SANDRA CUNNINGHAM | 1-800-544-5242 |
| SPRINGFIELD | PATRICK McMAHON | (413) 733-7038 |
| WORCESTER | KIM MYLES | (508) 755-4388 |

## SUMMARY OF LONG TERM CARE COMPLAINTS INVESTIGATED BY STATE REGULATORY AGENCIES
## FISCAL YEAR 1990

| COMPLAINT CATEGORY | ELDER AFFAIRS | PUBLIC HEALTH | ATTORNEY GENERAL | PUBLIC WELFARE | BOARD OF REGIS OF N.H. ADM. | TOTAL COMPLAINTS | % OF TOTAL |
|---|---|---|---|---|---|---|---|
| RESIDENT CARE | | | | | | | |
| ABUSE AND NEGLECT | 198 | 435 | 457 | - | 2 | 1092 | 12.0 |
| NURSING SERVICES | 1484 | 347 | - | - | - | 1831 | 20.1 |
| MEDICAL EQUIPMENT | 160 | - | - | - | - | 160 | 1.8 |
| PHYSICIAN SERVICES | 226 | 13 | - | - | - | 239 | 2.6 |
| MEDICATION PROBLEMS | 184 | - | - | - | - | 184 | 2.0 |
| LACK OF OTHER SERVICES | 422 | 42 | - | - | | 464 | 5.1 |
| SUBTOTAL | 2,674 | 837 | 457 | - | 2 | 3,970 | 43.6 |
| FORMAL ACTIVITY PROGRAMS | 193 | 7 | - | - | - | 200 | 2.2 |
| FINANCIAL ISSUES | 249 | 5 | 13 | | - | 267 | 2.9 |
| FOOD SERVICES | 833 | 33 | - | - | - | 866 | 9.5 |
| ADMINISTRATIVE PROBLEMS | 759 | 46 | 1 | 3 | 23 | 832 | 9.1 |
| RESIDENTS RIGHTS | 863 | 123 | 2 | 2 | - | 990 | 10.9 |
| BUILDING AND SANITATION | 1190 | 38 | - | - | | 1228 | 13.5 |
| OTHER | 736 | 11 | - | - | - | 747 | 8.2 |
| TOTAL COMPLAINTS | 7,497 | 1,100 | 473 | 5 | 25 | 9,100 | 100.0 |

# DISTRIBUTION OF BEDS BY LEVELS OF CARE

## JUNE 1989 TO JUNE 1990

| | Total Beds & Facilities | | |
|---|---|---|---|
| **Levels of Care** | **June 1989** | **June 1990** | **Difference** |
| Skilled Nursing Beds | 23,049 | 24,851 | +1,802 |
| Intermediate Care Beds | 25,610 | 25,431 | -179 |
| Rest Home Beds | 6,439 | 6,141 | -298 |
| Total Licensed Beds | 55,098 | 56,423 | +1,325 |

| Number of LTC Facilities | June 1989 | June 1990 | Difference |
|---|---|---|---|
| Nursing Homes | 552 | 562 | +10 |
| Rest Homes | 190 | 184 | -6 |
| Total Facilities | 742 | 746 | +4 |

# EXECUTIVE OFFICE OF ELDER AFFAIRS

# LONG TERM CARE OMBUDSMAN PROGRAM

# PROGRAM COVERAGE, SERVICES AND STAFFING

# FISCAL YEAR 1990

## PROGRAM SERVICES

| | |
|---|---|
| Total Facility Visits | 32,708 |
| Total Resident Interviews | 1,623,226 |
| Total Complaints Investigated | 7,497 |
| Requests for Information and Referrals | 6,186 |
| Community Outreach Presentations | 554 |

## PROGRAM STAFFING

| | |
|---|---|
| State Level Staff: | 6 |
| Substate Program Staff: | |
| Local Ombudsman Directors | 26 |
| Assistant Directors | 16 |
| Volunteers | 182 |
| Elder Service Corps | 75 |
| Senior Aides | 25 |
| Others | 22 |
| Total Substate Staff | 346 |
| Total Program Staff | 352 |

## EXECUTIVE OFFICE OF ELDER AFFAIRS

## LONG TERM CARE OMBUDSMAN PROGRAM

### COMPLAINTS INVESTIGATED IN FISCAL YEAR 1990

| COMPLAINT CATEGORY | FY 90 # | % of Total |
|---|---|---|
| RESIDENT CARE | | |
| Abuse and Neglect---------------------------------> | 198 | 2.6 |
| Inadequate Hygiene Care----------------------> | 245 | 3.3 |
| Rehabilitative and Restorative Nursing-------> | 130 | 1.7 |
| Unanswered Help Calls------------------------> | 247 | 3.3 |
| Poor Medical Equipment-----------------------> | 160 | 2.1 |
| Quality, Lack of Physician Services----------> | 226 | 3.0 |
| Medication Problems--------------------------> | 184 | 2.5 |
| Quality, Lack of General Nursing Services (Staff Attitudes and training, Inadequate supervision of Resident)---------> | 862 | 11.5 |
| Quality, Lack of Other Services (diagnostic, dental, social, etc.)----------> | 422 | 5.6 |
| SUBTOTAL OF RESIDENT CARE COMPLAINTS | 2,674 | 35.7 |
| FORMALIZED ACTIVITIES PROGRAMS-----------------> (quality, lack of) | 193 | 2.6 |
| FINANCIAL ISSUES--------------------------------> (e.g. Access to own money denied, Improper Accounting) | 249 | 3.3 |
| FOOD SERVICES-----------------------------------> (e.g. unappetizing, little variety, food served cold) | 833 | 11.1 |
| ADMINISTRATIVE PROBLEMS--------------------------> (e.g. understaffing, room assignments, Medicaid Discrimination) | 759 | 10.1 |
| RESIDENT RIGHTS---------------------------------> (e.g. Personal items lost or stolen; residents not treated with dignity and respect; violation of privacy) | 863 | 11.5 |
| BUILDING AND SANITATION-------------------------> (e.g. cleanliness, safety factors, heating, cooling, and ventilation) | 1,190 | 15.9 |
| COMPLAINTS NOT AGAINST FACILITY----------------> (e.g. residents' adjustment at facility; legal wills, and guardianship; community placement needed.) | 736 | 9.8 |
| TOTAL COMPLAINTS INVESTIGATED------------------> | 7,497 | 100.0 |

# EXECUTIVE OFFICE OF ELDER AFFAIRS

## LONG TERM CARE OMBUDSMAN PROGRAM

## COMPLAINTS INVESTIGATED IN FISCAL YEAR 1990

| Complainant Group | % of Total Complaints |
|---|---|
| Residents | 53.5% |
| Ombudspersons | 26.6% |
| Relatives | 9.2% |
| Facility staff | 6.0% |
| Friends | 1.2% |
| Anonymous | 0.8% |
| AAA, COA staff | 0.6% |
| Other Residents | 0.5% |
| Hospital staff | 0.2% |
| All others | 1.3% |
| Total Complaints (7,497) | 100.0% |

| Complaints Concerned Facilities/Agencies | % of Total Complaints |
|---|---|
| Skilled Nursing or Intermediate Care Facilities | 76.9% |
| Rest Homes | 9.8% |
| Regulatory or Reimbursement Agencies | 0.8% |
| Others (e.g. guardians, family, visitors) | 12.5% |
| Total Complaints (7,497) | 100.0% |

| Complaint Status | %of Total Complaints |
|---|---|
| Complaints Resolved | 75.5% |
| Complaints Discontinued, at request of resident, or insufficient data | 12.1% |
| Complaints Pending, at close of fiscal year | 12.4% |
| Total Complaints (7,497) | 100.0% |

| Action Taken To Resolve Complaints | % of Total Complaints |
|---|---|
| Resolved through negotiations with facility staff by Local Ombudsman staff | 92.8% |
| Other Referrals (includes Department of Public Health, Department of Public Welfare, AG Office, Legal Services) | 6.7% |
| Action Pending | 0.5% |
| Total Complaints (7,497) | 100.0% |

## DEPARTMENT OF PUBLIC HEALTH

## LONG TERM CARE COMPLAINTS INVESTIGATED

## FISCAL YEAR 1990

| COMPLAINT CATEGORY | # | % of Total |
|---|---|---|
| RESIDENT CARE | 837 | 76.1 |
| Patient Care | 254 | 23.1 |
| Patient Abuse | 435 | 39.5 |
| Lack of Nursing Services | 36 | 3.3 |
| Quality of Nursing Services | 57 | 5.2 |
| Physician Services | 13 | 1.2 |
| Quality and Lack of other Services | 42 | 3.8 |
| FORMALIZED ACTIVITY PROGRAMS | 7 | 0.6 |
| FINANCIAL | 5 | 0.5 |
| FOOD SERVICES | 33 | 3.0 |
| ADMINISTRATIVE | 46 | 4.2 |
| Administrative Policies | 44 | 4.0 |
| Personnel | 2 | 0.2 |
| RESIDENT RIGHTS | 123 | 11.2 |
| BUILDING/SANITATION | 38 | 3.5 |
| Cleanliness | 16 | 1.5 |
| Physical Plant | 22 | 2.0 |
| Other | 11 | 1.0 |
| Total Complaints | 1,100 | 100.0 |

# STATE REGULATORY AGENCIES
# LONG TERM CARE COMPLAINTS INVESTIGATED
# FISCAL YEAR 1990

## DEPARTMENT OF THE ATTORNEY GENERAL: MEDICAID FRAUD CONTROL UNIT

| | # | % OF TOTAL |
|---|---|---|
| Resident Care | | |
| Patient Abuse | 378 | 80% |
| Patient Neglect | 79 | 17% |
| Subtotal | 457 | 97% |
| Financial | | |
| Personal Needs Allowance Accounts | 13 | 3% |
| Total Complaints, Medicaid Fraud Control Unit | 470 | 100% |

## DEPARTMENT OF THE ATTORNEY GENERAL: CONSUMER PROTECTION DIVISION

| Type of Violation | # FACILITIES* |
|---|---|
| Patient Rights Violations | 2 |
| Medicaid Discrimination | 1 |
| Total Cases | 3 |

*The numbers of cases indicated are not representative of the number of elderly patients benefited by these actions. Each of these cases was brought on behalf of all patients in each of the facilities.

## DEPARTMENT OF PUBLIC WELFARE:

| | # Cases |
|---|---|
| Discrimination of Medicaid Recipients | 2 |
| Non-compliance with Long Term Care Connection Regulations | 3 |
| Total Cases | 5 |

## BOARD OF REGISTRATION OF NURSING HOME ADMINISTRATORS

| Type of Complaint | # | % OF TOTAL |
|---|---|---|
| Poor Management of Facility | 17 | 68% |
| Unprofessional Conduct | 6 | 24% |
| Resident Abuse, Mistreatment, Neglect | 2 | 8% |
| Total Complaints | 25 | 100% |

# LONG TERM CARE FACILITY COMPLAINTS

## OUTCOMES OF INVESTIGATIONS BY STATE AGENCIES

## FISCAL YEAR 1990

### EXECUTIVE OFFICE OF ELDER AFFAIRS

| | |
|---|---|
| Total Complaints Investigated | 7497 |
| Percent Justified | 62% |
| Referrals to Dept. Public Health | 304 |
| Referrals to Attorney General's Office | 256 |
| Referrals to U.S. Office of Civil Rights | 31 |

### DEPARTMENT OF PUBLIC HEALTH

| | |
|---|---|
| Total Complaints Investigated | 1100 |
| Percent Justified | 36% |
| Deficiency letters sent | 206 |
| Consultations Provided | 447 |
| Referrals to Attorney General's Office | 195 |
| Facilities Decertified | 7 |
| Agreements in Lieu of Decertification or Receiverships | 4 |
| Voluntary Closures: | 5 |
| Nursing Homes | 1 |
| Rest Homes | 4 |

### DEPARTMENT OF THE ATTORNEY GENERAL

| | |
|---|---|
| Total Abuse and Neglect Complaints | 457 |
| Criminal Investigations made | 10 |
| Criminal Prosecutions | 10 |
| Criminal Convictions | 3 |
| | |
| Referrals for Civil Administrative Action | 447 |
| Dept. of Public Health | 445 |
| Consumer Protection (AG) | 1 |
| Local District Attorney | 1 |
| | |
| Total Personal Needs Allowance Complaints | 13 |
| Cases with Restitution Secured ($16,805) | 3 |
| Cases pending, June 30, 1990 | 10 |
| | |
| *Cases in Violation of Consumer Protection Statute (Chap. 93A) | |
| Cases in Litigation | 11 |
| Cases in Receivership | 9 |
| Functional Receivership | 1 |
| Preliminary Injunction | 1 |
| Partial Judgement | 1 |
| (Total Residents Involved) | (550) |

*Initiated prior to FY 1990.

## OUTCOMES OF INVESTIGATIONS CONTINUED

### BOARD OF REGISTRATION OF NURSING HOME ADMINISTRATORS

| | |
|---|---|
| Total Complaints Received | 25 |
| Revocation of License | 1 |
| Voluntary Surrender of License | 2 |
| Number of Formal Hearings | 3 |
| Cases Dismissed (due to lack of evidence) | 11 |
| Cases Pending<br>(As of June 30, 1990) | 8 |

### DEPARTMENT OF PUBLIC WELFARE

| | |
|---|---|
| Cases Resolved, found justified | 5 |
| Patients Relocated: | 85 |
| To Skilled Nursing Beds | 8 |
| To Intermediate Care Beds | 70 |
| To Rest Home Beds | 5 |
| To Acute Care | 2 |